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NOT TO BE PUBLISHED IN OFFICIAL REPORTS

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

FOURTH APPELLATE DISTRICT

DIVISION THREE

RICHARD LAIRD, Plaintiff and Appellant, v. ROBERT JOHNSTON, Defendant and Respondent.	G038920 (Super. Ct. No. 03CC10632) O P I N I O N

Appeal from a judgment of the Superior Court of Orange County, Gregory Munoz, Judge. Affirmed.

Panish, Shea & Boyle, Adam K. Shea and Rahul Ravipudi for Plaintiff and Appellant.

Crandall, Wade & Lowe, James L. Crandall and Edwin B. Brown for Defendant and Respondent.

* * *

Richard Laird appeals from the trial court's decision to deny his new trial motion after a defense verdict in his auto accident personal injury suit against Robert Johnston. Laird challenges the sufficiency of the evidence to support the jury's conclusion Johnston's negligence did not cause Laird's injuries. Laird also contends the trial court erred in admitting, to counter Laird's emotional distress claim, evidence that preexisting emotional problems drove him to abuse alcohol and drugs, for which he sought treatment. Finally, he argues one of the jurors lacked the ability to understand English and was therefore incompetent. None of Laird's arguments have merit, and we therefore affirm the judgment.

I

FACTUAL AND PROCEDURAL BACKGROUND

Consistent with the standard of review, we set out the facts in the light most favorable to the judgment. (*People v. Ochoa* (1993) 6 Cal.4th 1199, 1206; see 9 Witkin, Cal. Procedure (4th ed. 1997) Appeal, § 364, p. 414 ["'All of the evidence most favorable to the respondent must be accepted as true, and that unfavorable discarded as not having sufficient verity to be accepted by the trier of fact'"].)

Around 6:00 p.m. on an early September evening, Laird, heading southbound, pulled into the left-turn pocket at an intersection in Huntington Beach. The light was green, so he inched forward into the intersection, but did not turn because he saw Johnston's northbound vehicle approaching in the opposite direction. Johnston was in the lane closest to the curb and furthest from Laird. Another lane of traffic and the northbound turn pocket on Johnston's side of the street separated him from Laird. According to Laird, he kept his eyes on Johnston's car for five seconds as it approached. Johnston was traveling faster than the posted speed limit of 45 miles per hour.

Approximately 200 feet from the intersection, Johnston noticed the light was green in his direction. Johnston determined he would proceed through the intersection, concluding that with the yellow cycle still to come, he had adequate time to

do so. He did not look at the light again. It was undisputed at trial that the yellow light cycle at that intersection lasted 4.3 seconds. Johnston's expert testified that, even assuming he was traveling 45 miles per hour, Johnston still would have had time to enter the intersection before the light in his direction turned red. Johnston entered the intersection. An eyewitness testified the light was yellow in Johnston's direction as Johnston entered the intersection. As Johnston proceeded through the intersection, Laird turned his vehicle into Johnston's path, striking Johnston's vehicle. Laird suffered injuries in the collision.

Following testimony, the trial court instructed the jury on the doctrine of comparative fault, among other instructions. The trial court also instructed the jury: "'A driver facing a steady circular yellow or yellow arrow signal is warned that the related green movement is ending or that a red indication will be shown immediately thereafter. [¶] California Vehicle Code section 21801 states as follows[:] [¶] . . . A driver of a vehicle intending to turn to the left or to complete a U-turn . . . shall yield the right-of-way to all vehicles approaching from the opposite direction which are close enough to constitute a hazard at any time during the turning movement and shall continue to yield the right-of-way to the approaching vehicles until the left turn or U-turn can be made with reasonable safety.'"

On a special verdict form, the jury returned a 12 to zero verdict concluding Johnston was negligent. But the jury, in a nine-to-three vote, also determined Johnston's negligence was not a substantial factor in causing Laird's injuries. The trial court entered judgment on the jury's defense verdict and, after the trial court denied his new trial motion, Laird now appeals.

II

DISCUSSION

A. *Substantial Evidence Supports the Jury's Verdict*

Laird contends the trial court erred in failing to grant a new trial on grounds the jury's no-causation determination lacked substantial evidence. The substantial evidence standard is a daunting one for an appellant. "'"If the circumstances reasonably justify the trier of fact's findings, the opinion of the reviewing court that the circumstances might also reasonably be reconciled with a contrary finding does not warrant a reversal of the judgment. [Citation.]"'" (*People v. Kraft* (2000) 23 Cal.4th 978, 1054.) And when, as here, appellant shouldered the burden of proof at trial, the question for the reviewing court becomes whether the evidence compels a finding in favor of the appellant as a matter of law. (*Roesch v. De Mota* (1944) 24 Cal.2d 563, 570-571 (*Roesch*); *Caron v. Andrew* (1955) 133 Cal.App.2d 402, 409.) In other words, was the plaintiff's evidence (1) "uncontradicted and unimpeached" and (2) "of such a character and weight as to leave no room for a judicial determination that it was insufficient to support a finding." (*Roesch, supra*, 24 Cal.2d at p. 571.) Laird does not meet that standard.

The flaw in Laird's attack on appeal is that he assumes the jury concluded Johnston's negligence consisted of running a red light. Based on that assumption, he concludes Johnston's right-of-way ceased when Johnston's light turned red, and that he (Laird) reasonably turned into the intersection because Johnston should have stopped at his red light. Our standard of review, which requires us to draw all inferences in favor of the judgment (*Denham v. Superior Court* (1970) 2 Cal.3d 557, 564 (*Denham*)), leads us to conclude those were not the facts the jury found.

The instructions presented the jury with an alternate theory of negligence. Substantial evidence, in the form of Laird's own testimony, supports the jury's conclusion Johnston exceeded the speed limit. But substantial evidence, in the form of

eyewitness testimony, also supports the conclusion that Johnston entered the intersection on a yellow light, preserving his right-of-way. The jury was entitled to reject Laird's testimony that he eyed Johnston steadily as he approached the intersection. Indeed, as the sole trier of credibility and fact (*Denham*, *supra*, 2 Cal.3d at p. 564), the jury could conclude Laird looked away or otherwise turned blindly into oncoming traffic, violating Johnston's right-of-way.

The jury therefore could reasonably conclude Laird proceeded through the intersection without looking, and Johnston could do nothing to prevent the accident. Had Johnston been traveling a bit slower at the speed limit, Laird would still have hit him. In other words, the fact that Johnston may have been exceeding the speed limit did not contribute to the accident if Laird negligently encroached into Johnston's path. Viewing the evidence in the light most favorable to the verdict, we cannot say the jury was *required* to reach a different conclusion. (*Roesch*, *supra*, 24 Cal.2d at p. 571.) Consequently, Laird's evidentiary challenge is without merit.

B. *The Trial Court Properly Admitted Evidence of Laird's Alcohol and Drug Use*

Laird asserts the trial court abused its discretion by admitting evidence he sought treatment for alcohol and chemical dependency. He contends the only explanation for the jury's defense verdict is that the evidence prejudiced the jury against him. Stated differently, he contends the jury committed misconduct by deciding the case based on emotional bias instead of the evidence. (Code Civ. Proc., § 657(2).) We disagree. The trial court has wide latitude in determining the relevance of proferred evidence. (*City of Ripon v. Sweetin* (2002) 100 Cal.App.4th 887, 900.) We review the trial court's evidentiary rulings for abuse of discretion (*ibid*.), and here we perceive none. The records showed Laird turned to drugs and alcohol to self-medicate in response to myriad emotional problems. As the trial court noted, the records were therefore relevant

and probative concerning Laird's claim the emotional distress he suffered stemmed from the accident. There was no error. (Evid. Code, § 352.)

C. *No Evidence Shows a Juror Was Incompetent Based on Language Deficiency*

Laird argues a new trial was required because Juror No. 11 could not understand English. (See Code Civ. Proc., § 203, subd. (a)(6) [disqualifying "[p]ersons who are not possessed of sufficient knowledge of the English language"].) But Laird presented no evidence of Juror No. 11's inability to understand English.

Attached to his motion for a new trial, Laird submitted the declaration of Juror No. 12, one of the three jurors who concluded Johnston's negligence caused Laird's injuries. As pertinent here, Juror No. 12 stated in his declaration: "I also observed during jury deliberations that [Juror No. 11], who was the juror seated next to me during trial, clearly did not understand the evidence presented during trial, and did not cast his votes according to what he believed the evidence showed. [Juror No. 11] is the juror who was confused on how he voted when the clerk polled the jurors following the verdict. During jury deliberations, [Juror No. 11] switched his vote, depending only on what the majority of the jurors were saying. Based on what I observed of [Juror No. 11] during the jury deliberation, I am convinced that [Juror No. 11] was confused about the facts and evidence presented during trial, and further, that [Juror No. 11] did not cast his votes based on what he believed the evidence proved."

Nowhere in the foregoing excerpt, or anywhere else in his declaration, does Juror No. 12 assert Juror No. 11 could not understand English. Instead, Juror No. 12's assertions amount to an impermissible inquiry into, and attack on, another juror's mental processes. (Evid. Code, § 1150, subd. (a) ["No evidence is admissible . . . concerning the mental processes by which [the verdict] was determined"].) In the absence of any evidence of a language comprehension problem — indeed, absent any admissible

evidence concerning the manner in which the jury reached its verdict, the trial court reasonably rejected Laird's new trial motion.

III

DISPOSITION

The judgment is affirmed.

ARONSON, J.

WE CONCUR:

O'LEARY, ACTING P. J.

FYBEL, J.